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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/245,354	02/05/1999	CHARLES MARIE HERVE NOBLET	Q53197	4832

7590

01/16/2003

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EXAMINER

TRAN, KHANH C

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/245,354

Applicant(s)

NOBLET, CHARLES MARIE  
HERVE

Examiner

Khanh Tran

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 1, the phrase "may be" in line 5 renders the claim indefinite because the claim contains numerous limitations, which lack clarity and are definite. It is impossible to determine if the limitation is required in the claim or if it is not. See MPEP § 2173.05(b).

2. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "the first dedicated channel broadcasts" in claims 4-6, 11-13 is used by the claim meaning "the channel broadcasts messages," while the accepted meaning is "broadcasts, on the first channel" as stated in claim 8.

Examiner's notes: for the purpose of art rejection below, assume that the reprogramming data is downloaded from a second channel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah U.S. Patent 6,029,065.

Regarding claim 1, Shah's invention is directed to programming of network feature codes in mobile stations. Figure 4 shows a diagram of a call flow for changing a feature code list in one embodiment of Shah's invention. According to figure 4, base station 200 receives a user initiated call 101 over Access Channel 150, which includes selection of feature code. In another embodiment (column 7, lines 17-30), the base station 200 sends Channel Assignment Message directing the mobile station 100 to move to an assigned Traffic channel for downloading the network feature codes. As known in the art, each said channel occupies a frequency within a frequency band, and it is obvious that the Traffic channel has larger bandwidth than Access Channel due to data transfer. It would have been obvious that the Channel Assignment Message includes the frequency implicitly of the Traffic Channel and radio access parameters for the mobile station to gain access the Traffic Channel.

Regarding claims 2-3, Shah's invention is directed to programming of network feature codes in mobile stations in wireless communications networks. It would have

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been obvious that the Access Channel and Traffic Channel have standard interface common to many network locations.

Regarding claim 7, as recited in claims 2-3, Shah's invention is directed to programming of network feature codes in mobile stations in wireless communications networks. Therefore, the mobile station transceiver must be configured to support the radio interfaces for both the Access Channel and Traffic Channel.

Regarding claim 8, refer to figure 4 again, the Paging Channel is provided for dedicated use and the Traffic Channel (as described column 7, lines 17-30) is provided for downloading the feature codes. As recited in claim 1, the Traffic channel has larger bandwidth than Access Channel due to data transfer and the base station 200 sends Channel Assignment Message directing the mobile station 100 to move to an assigned Traffic channel for downloading the network feature codes. It would have been obvious that the Channel Assignment Message includes the frequency implicitly of the Traffic Channel and radio access parameters for the mobile station to gain access the Traffic Channel.

Regarding claims 9-10, as recited in claims 2-3, Shah's invention is directed to programming of network feature codes in mobile stations in wireless communications networks. Therefore, a standard radio interface common to a plurality of networks is established with respect to the first channel and the second channel.

***Allowable Subject Matter***

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3. Claims 4-6, 11-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

4. The prior art made of record and not relied upon could be considered pertinent to applicant's disclosure:

Roach, Jr. U.S. Patent 6,044,265 discloses methods and apparatus for cellular set programming.

Shah U.S. Patent 6,047,071 discloses network-initiated change of mobile phone parameters.

Doiron et al. U.S. Patent 6,128,483 discloses simultaneous over the air data download to multiple radios.

Grube et al. U.S. Patent 5,745,677 discloses method for reprogramming a communication unit's access to a wireless communication system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Tran whose telephone number is 703-305-2384. The examiner can normally be reached on Monday - Friday from 08:00 AM - 04:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

KCT  
January 10, 2003

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600 1/13/03